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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/994,846

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Mika Sugimoto

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07/10/2006

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EXAMINER

ZHOU, TING

ART UNIT

PAPER NUMBER

2173

DATE MAILED: 07/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/994,846

Applicant(s)

SUGIMOTO, MIKA

Examiner

Ting Zhou

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. The Request for Continued Examination (RCE) filed on 19 April 2006 under 37 CFR 1.53(d) based on parent Application No. 09/994,846 is acceptable and a RCE has been established. An action on the RCE follows.

2. The amendments filed on 21 March 2006, submitted with the filing of the RCE have been received and entered. Claims 1-20 as amended are pending in the application.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 1 and 8 claim a “program”, which is software per se, and software claimed by itself, without being executed or implemented on a computer medium, is intangible. Claims 1 and 8 define a program embodying functional descriptive material. However, the claims do not define a computer-readable medium or memory and is thus non-statutory for that reason (i.e., when functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized). That is, the scope of the presently claimed program can range from paper on

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which the program is written, to a program simply contemplated and memorized by a person. Claims 2-7 and 9-16 are rejected for the same reasons as claims 1 and 8, respectively.

4. To expedite a complete examination of the instant application, the claims rejected under 35 U.S.C. 101 (nonstatutory) above are further rejected as set forth below in anticipation of the applicant amending these claims to place them within the four statutory categories of invention.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-14, 17 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker, in the book, The Complete Idiot's Guide to Microsoft FrontPage 2000 (hereinafter "Parker").

Referring to claims 1 and 8, Parker teaches a homepage creation and update program (Microsoft FrontPage 2000) causing the computer to execute the functions of displaying a plurality of stored images and allowing the user to select a desired image (displaying a plurality of files, such as clip art images, for users to import into a webpage) (pages 88-91), allowing the user to indicate a beginning of a homepage creation process

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(users can create a new website, or update a website by using the FrontPage creator/editor to save and publish pages) (pages 15-16, 25 and 107), automatically performing the one of the creation and the update of a homepage using the desired image after the desired image is selected and the beginning of the homepage creation process is indicated by the user (after the user has added or edited a selected image, FrontPage will automatically create or update the page when the user selects the options to save the changes made to the website and upload and publish the newly added or edited images, pages etc.) (pages 26-27, 107 and 297-300); and arranging, when the user selects a plurality of desired images and indicates beginning of the homepage creation process, the selected plurality of images, automatically, according to image information stored in each image file by a camera (after the user has inserted or edited a selected image with corresponding image information stored in the image file, i.e. properties such as image width, height, direction, etc. in "Picture Properties", and selected the option to save and upload/publish the newly added or edited images to the web page, the web page is automatically created/updated with the images arranged in the user selected fashion, i.e. the size, height, placement, etc. of the images of the published website corresponds to the user edited "Picture Properties" information of the image; user can select images from a digital camera to be imported/uploaded into the webpage) (pages 26-27, 91-96, 102-107 and 297-300).

Referring to claims 2 and 9, Parker teaches arranging, when the user selects a plurality of desired images and indicated beginning of the homepage creation process, the selected plurality of images in an order of the user's selection and automatically performing the one of creation and update of the homepage (FrontPage places each image the user selects onto the page in order of user selection; for example, the first image the

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user selects will be placed onto the page, followed by the next image the user selects, etc.) (pages 88-91).

Referring to claims 3 and 10, Parker teaches the image information concerning at least one of image width, image height, image direction, image resolution, trimming and zooming (image information that can be arranged include properties such as image width, height (size), direction (alignment), etc.) (pages 92-96 and 102-106).

Referring to claims 4 and 11, Parker teaches performing, when the user selects a plurality of desired images and indicates beginning of the homepage creation process, the one of the creation and update of the homepage, which displays the images with the photographing information stored in each image file, the photographing information concerning at least one of date and time, photographer, title, image width, image height, compression mode of a stored image, shutter speed, contraction value, brightness value, light exposure correction value, minimum stop-down value of lens, object distance, photometry method, flash emission conditions, photographing location, photographing direction, and comment information (when the user creates, or updates the webpage by uploading and publishing the page, photographing information, or file, image information can be displayed, including information such as date, title, size, comments, etc.) (pages 276-277 and 290-291).

Referring to claims 5 and 12, Parker teaches displaying, when the user selects the desired image and indicated beginning of the homepage creation process, a screen editor homepage, and selecting an image on the screen editor homepage, and then moving the image location and changing the image size (when the user selects to create a website with FrontPage and selected a desired image to add to the page, the user can change the

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size or location of the image by selecting the corresponding options, bringing up the appropriate dialog boxes, or screen editors for editing the images) (pages 92-95).

Referring to claims 6 and 13, Parker teaches automatically transmitting the homepage, which is one of created and updated by the homepage creation and update program, to a specified server (FrontPage will upload the created, updated image and/or page onto a web server in order to publish the page over the Internet upon user selection to upload and publish the pages) (pages 297-300).

Referring to claims 7 and 14, Parker teaches creating and updating an index part concerning the homepage transmitted to the specified server (the user can view a summary, or index of all the pages, files, images, etc. on the site) (pages 276-277 and 290-291).

Referring to claim 17, Parker teaches a method comprising allowing a user to display a plurality of stored images and allowing the user to select one or more desired images from the plurality of stored images (displaying a plurality of files, such as clip art images, for users to import into a webpage) (pages 88-91); allowing the user to select one of an image information stored in each image file (users can select to change the image information for a particular image, such as the width, height, direction, etc. of an image) (pages 26-27, 92-96, 102-107 and 297-300); allowing the user to indicate a beginning of a homepage creation process (users can create a new website, or update a website by using the FrontPage creator/editor to save and publish pages) (pages 15-16, 25 and 107); and automatically performing one of a creation and an update of a homepage, using the selected desired images after the beginning of the homepage creation process is indicated by the user, wherein the selected plurality of images are automatically arranged according

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to the selected image information stored in each image file by a camera (after the user has inserted or edited a selected image with corresponding image information stored in the image file, i.e. properties such as image width, height, direction, etc. in “Picture Properties”, and selected the option to save and upload/publish the newly added or edited images to the web page, the web page is automatically created/updated with the images arranged in the user selected fashion, i.e. the size, height, placement, etc. of the images of the published website corresponds to the user edited “Picture Properties” information of the image; user can select images from a digital camera to be imported/uploaded into the webpage) (pages 26-27, 91-96, 102-107 and 297-300).

Referring to claim 20, as best understood by the examiner, parker teaches performing, when the user selects a plurality of desired images and indicates a beginning of the homepage creation process, the one of the creation and the update of the homepage (after the user has added or edited images, FrontPage will automatically create or update the page when the user selects the options to save the changes made to the website and upload and publish the newly added or edited images, pages etc.) (pages 26-27, 107 and 297-300), which initially displays the images with the photographing information stored in each image file, the image information concerning at least one of date and time, photographer, title, image width, height, compression mode of a stored image, shutter speed, contraction value, brightness value, light exposure correction value, minimum stop-down value of lens, object distance, photometry method, flash emission conditions, photographing location, photographing direction, and comment information (after the user has inserted or edited a selected image with corresponding image information stored in the image file, i.e. properties such as image width, height, direction, etc. displayed in



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“Picture Properties”, and selected the option to save and upload/publish the newly added or edited images to the web page, the web page is automatically created/updated with the images arranged in the user selected fashion, i.e. the size, height, placement, etc. of the images of the published website corresponds to the user edited “Picture Properties” information of the image) (pages 26-27, 92-96, 102-107 and 297-300), and the image information used for automatically arranging the desired images comprises one or more of the photographing information, as selected by the user (images are imported from the camera with a default set of parameter, i.e. a certain width, height, brightness, etc.) (pages 26-27, 91-96, 102-107 and 297-300). Furthermore, when the user creates, or updates the webpage by uploading and publishing the page, photographing information, or file, image information can be displayed, including information such as date, title, size, comments, as shown on pages 276-277 and 290-291.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15, 16 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Parker, in the book, The Complete Idiot’s Guide to Microsoft FrontPage 2000, as applied to claims 1, 8 and 17 above, and Hackett et al. U.S. Patent 5,926,210 (hereinafter “Hackett”).

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Referring to claims 15, 16 and 18, Parker teaches all of the limitations as applied to claims 1, 8 and 17 above. However, Parker fails to explicitly teach wherein the image information stored in each image file and used for the automatically arranging comprises incidental information that is transmitted by an electronic camera along with image data for an image. Hackett teaches the transmission of images for viewing at a remote location similar to that of Parker. In addition, Hackett further teaches transmitting incidental information such as date and time, camera ID, etc. stored with each image (Hackett: column 3, lines 3-10 and column 4, lines 1-9). It would have been obvious to one of ordinary skill in the art, having the teachings of Parker and Hackett before him at the time the invention was made, to modify the interface for creating homepages using selected images of Parker to include the transmission of image information such as date and time along with image data from a digital camera of Hackett. One would have been motivated to make such a combination in order to allow a plurality of users to easily view images photographed with a digital camera and to allow users to edit and prepare their own homepages using pictures taken from a camera; with the increasing growth of digital cameras, it would be advantageous to allow users to create personalized web pages with user desired images taken from a digital camera. Furthermore, such a combination would allow users to perform searches on transferred images based on parameters, enabling users to quickly and easily locate desired images for inclusion in the webpage.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Parker, in the book, The Complete Idiot's Guide to Microsoft FrontPage 2000, as applied to claim 17 above, and Fredlund et al. U.S. Patent 6,812,962 (hereinafter "Fredlund").

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Referring to claim 19, Parker teaches all of the limitations as applied to claim 17 above. Specifically, Parker teaches image information stored in each image file for arranging. However, Parker fails to explicitly teach wherein the image information stored in each image file for arranging comprising information stored in a tag of an Exchangeable Image File (EXIF) format. Fredlund teaches loading, i.e. transferring images over a network (Fredlund: column 2, lines 28-32) similar to that of Parker. In addition, Fredlund further teaches storing image information in Exchangeable Image File (EXIF) format (Fredlund: column 4, lines 1-31). It would have been obvious to one of ordinary skill in the art, having the teachings of Parker and Fredlund before him at the time the invention was made, to modify the interface that stores images in EXIF format. One would have been motivated to make such a combination in order to provide the flexibility of storing image metadata in a certain format.

### ***Response to Arguments***

8. Applicant's arguments filed 21 March 2006 have been fully considered but they are not persuasive:

9. The applicant argues that Parker teaches manual manipulations by a user for making changes, i.e. arranging images, and not an automatic procedure for arranging images as claimed. The examiner respectfully disagrees. The article written by Parker is essentially a guide to Microsoft FrontPage 2000, an HTML editor used to design/create web pages. FrontPage allows users to interact with the interface and perform actions such as adding images and text to a page layout, and then converts the user created page

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layout into HTML code upon the users uploading the created page onto the web server, thus creating a webpage. The examiner respectfully argues that FrontPage, as described in Parker, allows users to add images to a page (pages 86-90) and then save and upload the created page comprising the added image (pages 26-27, 107 and 297-300); therefore, when the user chooses to upload the created page, i.e. indicate beginning of a homepage creation process, FrontPage automatically creates the web page according to the page saved by the user, with the desired images arranged according to user selection, i.e.

FrontPage converts the user created page comprising the selected images into HTML code for publishing/uploading onto the Internet, thereby producing a webpage.

Furthermore, the examiner respectfully points out that images, whether clip art images or images from a digital camera or other source, have inherent properties/information associated with it; for example, all images have an inherent width and height so that when it is first selected and displayed on the page, it is displayed in its default size; therefore, the image files themselves have inherently default information associated, i.e. size.

Parker teaches that the users can select images to be inserted into a created webpage, and that the selected images can be images taken from a digital camera (26-27, 91-96, 102-107 and 297-300). In other words, the images are loaded onto the page according to its default size from the camera. When the user has finished creating the page, and chooses to upload the page, the webpage comprising the images from the camera (which has the default properties) are automatically created by the FrontPage program from the user created page. The applicant argues that the HTML page arrangement data is not image information stored in each image file but rather, it is image data stored in the webpage data. The examiner respectfully disagrees. The HTML webpage is created/arranged

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from/according to the user created page comprising the plurality of images, and since the images have inherent image properties associated with the image, per the arguments above, the HTML page contains the inherent image properties of the images.

10. With regards to claims 2 and 9, the applicant argues that the rejection of record fails to address an automatic arranging based on the order of the user's selection of images. The examiner respectfully disagrees. FrontPage allows users to select images to be placed onto the page, as recited in pages 88-91; the user can select an image to be placed on the page, the user can then select a second image to be placed on the page, and a third and a fourth, etc.; therefore, the images are arranged onto the page according to the order of the user's selection.

11. With regards to claims 3 and 10, the applicant argues that there is no suggestion that the parameters are used as the basis for arrangement of images. The examiner respectfully disagrees. Pages 92-96 and 102-106 shows that the user is allowed to edit parameters such as height and width of the selected displayed image. Since the images are arranged on the screen with respect to each other, the sizes of the images affect the arrangements/placements of the images.

12. With regards to claims 4, 11 and 20, the applicant argues that the description of Parker relates to parameters in a file directory, not that of a display for a layout of images. The examiner respectfully disagrees. The parameters taught by Parker are parameters for the image files of the images/pictures displayed on the user's web page.

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The claims recite the display of “photographing information” stored in each image file.

The figure displayed on page 276 of Parker shows the display of a listing of image files and the associated image file information (photographing information) such as date, size, etc.

13. With regards to the Okada reference, applicant's arguments are moot in view of the new ground(s) of rejection over Hackett.

14. With regards to the Fredlund reference, the applicant argues that Fredlund is nonanalogous art. In response to applicant's argument that Fredlund is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Fredlund teaches the transfer of images; Parker similarly teaches the uploading of images from one device to another; therefore, both Fredlund and Parker are concerned with the transmission of images between devices. Pertinent to the applicant's invention, Fredlund also teaches allowing the images to be stored in EXIF format, providing flexibility in image storing capabilities.

### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ting Zhou whose telephone number is (571) 272-4058.

The examiner can normally be reached on Monday - Friday 7:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca can be reached at (571) 272-4048. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TZ

  
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PRIMARY EXAMINER